

106TH CONGRESS  
1ST SESSION

# S. 494

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2, 1999

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. MACK, Mr. BREAUX, Mr. KERREY, Ms. MIKULSKI, Mr. BRYAN, Mr. HOLLINGS, Mr. INOUE, Mr. HARKIN, Mr. BAYH, Mr. ROBB, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nursing Home Resi-  
5 dential Security Act of 1999”.

1 **SEC. 2. RESTRICTIONS ON TRANSFERS OR DISCHARGES OF**  
 2 **NURSING FACILITY RESIDENTS IN THE CASE**  
 3 **OF VOLUNTARY WITHDRAWAL FROM PAR-**  
 4 **TICIPATION UNDER THE MEDICAID PRO-**  
 5 **GRAM.**

6 (a) IN GENERAL.—Section 1919(c)(2) of the Social  
 7 Security Act (42 U.S.C. 1396r(c)(2)) is amended by add-  
 8 ing at the end the following new subparagraph:

9 “(F) CONTINUING RIGHTS IN CASE OF  
 10 VOLUNTARY WITHDRAWAL FROM PARTICIPA-  
 11 TION.—

12 “(i) IN GENERAL.—In the case of a  
 13 nursing facility that voluntarily withdraws  
 14 from participation in a State plan under  
 15 this title but continues to provide services  
 16 of the type provided by nursing facilities—

17 “(I) the facility’s voluntary with-  
 18 drawal from participation is not an  
 19 acceptable basis for the transfer or  
 20 discharge of residents of the facility  
 21 who were residing in the facility on  
 22 the day before the effective date of the  
 23 withdrawal (including those residents  
 24 who were not entitled to medical as-  
 25 sistance as of such day);

1 “(II) the provisions of this sec-  
2 tion continue to apply to such resi-  
3 dents until the date of their discharge  
4 from the facility; and

5 “(III) in the case of each individ-  
6 ual who begins residence in the facil-  
7 ity after the effective date of such  
8 withdrawal, the facility shall provide  
9 notice orally and in a prominent man-  
10 ner in writing on a separate page at  
11 the time the individual begins resi-  
12 dence of the information described in  
13 clause (ii) and shall obtain from each  
14 such individual at such time an ac-  
15 knowledgment of receipt of such infor-  
16 mation that is in writing, signed by  
17 the individual, and separate from  
18 other documents signed by such indi-  
19 vidual.

20 Nothing in this subparagraph shall be con-  
21 strued as affecting any requirement of a  
22 participation agreement that a nursing fa-  
23 cility provide advance notice to the State  
24 or the Secretary, or both, of its intention  
25 to terminate the agreement.

1           “(ii) INFORMATION FOR NEW RESI-  
2           DENTS.—The information described in this  
3           clause for a resident is the following:

4                   “(I) The facility is not participat-  
5                   ing in the program under this title  
6                   with respect to that resident.

7                   “(II) The facility may transfer or  
8                   discharge the resident from the facil-  
9                   ity at such time as the resident is un-  
10                  able to pay the charges of the facility,  
11                  even though the resident may have be-  
12                  come eligible for medical assistance  
13                  for nursing facility services under this  
14                  title.

15           “(iii) CONTINUATION OF PAYMENTS  
16           AND OVERSIGHT AUTHORITY.—Notwith-  
17           standing any other provision of this title,  
18           with respect to the residents described in  
19           clause (i)(I), a participation agreement of  
20           a facility described in clause (i) is deemed  
21           to continue in effect under such plan after  
22           the effective date of the facility’s voluntary  
23           withdrawal from participation under the  
24           State plan for purposes of—

1 “(I) receiving payments under  
 2 the State plan for nursing facility  
 3 services provided to such residents;

4 “(II) maintaining compliance  
 5 with all applicable requirements of  
 6 this title; and

7 “(III) continuing to apply the  
 8 survey, certification, and enforcement  
 9 authority provided under subsections  
 10 (g) and (h) (including involuntary ter-  
 11 mination of a participation agreement  
 12 deemed continued under this clause).

13 “(iv) NO APPLICATION TO NEW RESI-  
 14 DENTS.—This paragraph (other than sub-  
 15 clause (III) of clause (i)) shall not apply to  
 16 an individual who begins residence in a fa-  
 17 cility on or after the effective date of the  
 18 withdrawal from participation under this  
 19 subparagraph.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
 21 subsection (a) applies to voluntary withdrawals from par-  
 22 ticipation occurring on or after the date of the enactment  
 23 of this Act.

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